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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,776	11/26/2003	Grigori Gadiyak	WRAMC 02-41 05	4181
217370 7590 10/06/2008 OFFICE OF THE STAFF JUDGE ADVOCATE U.S. ARMY MEDICAL RESEARCH AND MATERIEL COMMAND ATTN: MCMR-JA (MS. ELIZABETH ARWINE) 504 SCOTT STREET FORT DETRICK, MD 21702-5012				
EXAMINER				
PASS, NATALIE				
ART UNIT		PAPER NUMBER		
3686				
MAIL DATE		DELIVERY MODE		
10/06/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/721,776

Applicant(s)

GADIYAK ET AL.

Examiner

Natalie A. Pass

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003 and 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed 26 November 2003 and the Preliminary Amendment filed 26 March 2004. Claims 1-30 are pending.

Claim Objections

2. Applicant is advised that should claim 22 be found allowable, claim 23 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-4, 8, 24-25, 27-30 are rejected under 35 U.S.C. 102(a) as being anticipated by Danenberg (GB 2364788 A).

(A) As per claim 1, Danenberg teaches a consultation management telecommunication system for providing podiatry-related consultation to a patient, comprising:

a computer program registration module including computer readable instructions for allowing user registration with the system (Danenberg; page 2, lines 22-25, paragraph bridging pages 5-6);

a computer program consultation creation module including computer readable instructions for accepting “customer” (reads on “patient”) activity information for assisting in consultation of the “customer” (reads on “patient”) (Danenberg; page 5, line 21 to page 6, line 15, page 7, lines 14-19);

a computer program consultation interview module including computer readable instructions for accepting technical podiatry-related information for assisting in the consultation of the “customer” (reads on “patient”) (Danenberg; page 6, line 25 to page 7, line 19);

a computer program recommendation module including computer readable instructions for generating a technical shoe recommendation based on the consultation of the “customer” (reads on “patient”) (Danenberg; page 8, lines 19-28);

and at least one workstation including a microprocessor for executing said computer program modules (Danenberg; page 2, lines 26-28, page 3, lines 10-27).

(B) As per claims 2-4, 8, 24-25, 27-29, Danenberg teaches a system as analyzed and discussed in claim I above

further comprising a computer program authorization module including computer readable instructions for allowing the user to authorize the registration (Danenberg; paragraph bridging pages 3-4, paragraph bridging pages 5-6);

a computer program technical report module including computer readable instructions for allowing the user to generate a “computer print out” (reads on “technical report” based on said technical recommendation (Danenberg; paragraph bridging pages 5-6);

further comprising a computer program editor module including computer readable instructions for allowing said user to “purchase a shoe a second or further time” (reads on update, alter, add, and delete information pertaining to the system”) (Danenberg; page 11, lines 21-29);

wherein said consultation creation program module includes computer readable instructions for allowing patient registration with the system (Danenberg; page 2, lines 22-25, paragraph bridging pages 5-6);

wherein said technical report includes information from said technical podiatry-related information and said technical recommendation (Danenberg; paragraph bridging pages 5-6);

wherein said technical report module further includes computer readable instructions for allowing said user to update said report (Danenberg; paragraph bridging pages 5-6);

wherein said registration module includes a plurality of fields including “the individuals particulars” (reads on “a user type field, a plurality of demographics fields”) (Danenberg; page 2, lines 22-25), a username field (Danenberg; paragraph bridging pages 3-4, paragraph bridging pages 5-6), and a “specific ID number” (reads on a “password field”) (Danenberg; paragraph bridging pages 5-6);

wherein said computer program registration module further includes computer readable instructions for allowing said user to confirm registration (Danenberg; page 2, lines 22-25, paragraph bridging pages 3-4, paragraph bridging pages 5-6); and

further comprising a computer program menu module including computer readable instructions for providing options to a user via a menu-based format (Danenberg; page 8, lines 5-10).

(C) Method claim 30 repeats the subject matter of system claim 1 as a series of steps rather than a set of elements. As the elements features of claim 1, have been shown to be disclosed by the teachings of Danenberg in the rejection of claim 1 above, it is readily apparent that the system disclosed by the applied prior art includes the steps to perform the recited underlying functions. As such, these limitations recited in claim 30 are rejected for the same reasons given above for system claim 1, and incorporated herein.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Danenberg (GB 2364788 A), as applied to claim 1 above, and further in view of Evensen et al. (US 20030113694 A).

(A) As per claim 5, Danenberg teaches a system as analyzed and discussed in claim 1 above.

Danenberg fails to explicitly disclose a system further comprising a computer program statistics module including computer readable instructions for generating statistics regarding patient injuries.

However, the above features are well-known in the art, as evidenced by Evensen.

In particular, Evensen teaches a system further comprising a computer program statistics module including computer readable instructions for generating statistics regarding patient injuries (Evensen; Figure 11, paragraphs [0019], [0069], [0075], [0077]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Danenberg to include these limitations, as taught by Evensen, with the motivations of using “statistical data [that] may include, but is not limited to, the effect of certain brands and models of various equipment for enhancing performance for certain types of members in certain types of circumstances” and “... generat[ing] a recommendation of what ... [...] ... model of equipment, including accessories, apparel [shoes] and balls, would most enhance the repetitive motion performance of the particular member ...” (Evensen; paragraph [0069]).

7. Claims 6-7, 9-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danenberg (GB 2364788 A), as applied to claims 1 and 2 above, and further in view of Udiljak et al., (US 20040133431 A1).

(A) As per claim 6, Danenberg teaches a system as analyzed and discussed in claims 1 and 2 above.

Danenberg fails to explicitly disclose a system wherein said computer program authorization module includes computer readable instructions for allowing said user to add or delete said registration.

However, the above features are well-known in the art, as evidenced by Udiljak.

In particular, Udiljak teaches a system wherein said computer program authorization module includes computer readable instructions for allowing said user to add or “exit” (reads on “delete”) said registration (Udiljak; paragraph [0059]); and

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Danenberg to include these limitations, as taught by Udiljak, with the motivations of “provid[ing] an efficient means of transmitting customer data (including personal information as well as foot models) from the customer location to a centralized manufacturing, ordering, and distribution center” (Udiljak; paragraph [0012]).

(B) As per claims 7, 9-12, Danenberg and Udiljak teach a system as analyzed and discussed above.

wherein said computer program authorization module further includes computer readable instructions for allowing a user to “verify” (reads on “confirm”) said addition or deletion (Danenberg; paragraph bridging pages 3-4, page 8, paragraph 2);

wherein said consultation creation program module includes computer readable instructions for allowing said user to respond to a series of queries pertaining to exercise activity information (Udiljak; paragraph [0019]) to create an on-line worksheet (Udiljak; paragraphs [0014], [0017], [0043]), said computer readable instructions also allowing the user to update

said on-line worksheet (Udiljak; paragraph [0050]); Examiner interprets Udiljak's teachings of an online "database" to be a form of an "on-line worksheet;"

further comprising a computer program worksheet "verification" (reads on "confirmation") module including computer readable instructions for allowing a user to confirm said worksheet (Udiljak; paragraph [0044]);

further comprising a computer program worksheet deletion module including computer readable instructions for allowing a user to "exit the program" (reads on "delete said worksheet") (Udiljak; paragraph [0059]); and

wherein said series of queries relate to at least one of orthotics, running gait, and physical measurements (Udiljak; paragraphs [0019], [0096]).

The motivations for combining the respective teachings of Danenberg and Udiljak are as given in the rejection of claim 6 above, and incorporated herein.

(C) As per claims 13-16, Danenberg and Udiljak teach a system as analyzed and discussed above

wherein said consultation interview module further includes computer readable instructions for allowing said user to select "one of at least five different options" (reads on "a type of consultation") (Udiljak; Figure 7, paragraph [0060]);

wherein said consultation interview module further includes computer readable instructions for allowing said user to select a particular worksheet "relating to prior orders" (reads on "to be used in consultation of the patient") (Udiljak; Figure 7, paragraphs [0060]-[0064]);

wherein said consultation interview module includes computer readable instructions for allowing said user to respond to a series of queries pertaining to said technical podiatry-related information (Udiljak; paragraph [0019]); and

wherein said technical podiatry-related information relates to at least one of injuries, physical training activity, physical ability, footwear, posture, and gait (Udiljak; paragraph [0019]).

The motivations for combining the respective teachings of Danenberg and Udiljak are as given in the rejection of claim 6 above, and incorporated herein.

(D) As per claims 17-20, Danenberg and Udiljak teach a system as analyzed and discussed above

further comprising an image uploading program module including computer readable instructions for allowing said user to upload a video image from a referral site and transfer said image to a consultant site (Udiljak; Figure 7, paragraph [0059]);

further comprising an image preview program module including computer readable instructions for allowing said user to preview said image before transferring said image to said consultant site (Udiljak; paragraph [0059]);

further comprising a technical podiatry-related information update module for allowing a user to update said technical podiatry-related information (Udiljak; paragraph [0050]); and

wherein said technical recommendation includes answers to a series of questions provided to said user, said questions related to information for determining an appropriate shoe for a patient (Udiljak; paragraphs [0055], [0062]).

The motivations for combining the respective teachings of Danenberg and Udiljak are as given in the rejection of claim 6 above, and incorporated herein.

(E) As per claims 21-23, Danenberg and Udiljak teach a system as analyzed and discussed above further comprising

a computer program shoe recommendation update module for allowing said user to update said answers (Udiljak; Figure 7, paragraphs [0062]-[0064]); and

a computer program shoe recommendation delete module for allowing said user to delete said recommendation (Udiljak; paragraphs [0059]-[0064]).

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Danenberg (GB 2364788 A), as applied to claim 1 above, and further in view of Ananian, (US 20030028451 A1).

(A) As per claim 26, Danenberg teaches a system as analyzed and discussed in claims 1 and 3 above.

Danenberg fails to explicitly disclose a system wherein said technical report module further includes computer readable instructions for allowing said user to delete said report.

However, the above features are well-known in the art, as evidenced by Ananian.

In particular, Ananian teaches a system wherein said technical report module further includes computer readable instructions for allowing said user to delete said report (Ananian; paragraphs [0084], [0325], [0382])

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Danenberg to include these limitations, as taught by Ananian, with the motivations of providing "a universal, global, standardized, interactive cataloging system of providing a customer with personalized product information from any participating Vendor, all in one place, while completely protecting the anonymity of the customer as they utilize this resource" (Ananian; paragraph [0019]).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied references, Thies et al. (5,206,804 A), White (5,237,520 A), Yoda (5,515,268 A), Anderson et al. (5,720,200 A), Cook (6,879,945 B1), and Lin-Hendel (7,328,177), teach the environment of electronic medical consultation.

10. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks
Washington D.C. 20231**

or faxed to: **(571) 273-8300.**

For informal or draft communications, please label "PROPOSED" or "DRAFT" on the front page of the communication and do NOT sign the communication.

After Final communications should be labeled "Box AF."

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gerald J. O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/N. A. P./
Examiner, Art Unit 3626
September 30, 2008

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3626